

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
High-cost Universal Service Support)	Docket No. WC 05-337
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

**THE REPLY COMMENTS OF
FIVE STATE MEMBERS OF THE MID-ATLANTIC CONFERENCE OF
REGULATORY
UTILITY COMMISSIONERS AND THEIR STATE COMMISSIONS**

The five member states of the Mid-Atlantic Conference of Regulatory Utility Commissioners (“Five MACRUC States”)¹ are filing these Reply Comments. The Five MACRUC States filing these Reply Comments are the State of Delaware, the District of Columbia, the State of New Jersey, and the Commonwealths of Pennsylvania and Virginia. These Five MACRUC States Reply Comments address the Federal Communications Commission’s (“FCC”) Public Notice at WC Docket No. 05-337 and CC Docket No. 96-45, *Recommended Decision of the Federal-State Joint Board on Universal Service*, adopted April 26, 2007, released May 1, 2007.

The FCC seeks input, primarily, on a proposed interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (CETCs) may receive for each state based on the

¹ Current MACRUC Members are the Delaware Public Service Commission, the Public Service Commission of the District of Columbia, the Kentucky Public Service Commission, the Maryland Public Service Commission, the New Jersey Board Of Public Utilities, the New York Public Service Commission, the Pennsylvania Public Utility Commission, the Virgin Islands Public Service Commission, the Virginia State Corporations Commission, and the West Virginia Public Service Commission.

average level of competitive support distributed in 2006. The Five MACRUC States Reply Comments are confined to the proposed interim, emergency cap on high-cost support because the FCC has another proceeding underway on longer-term, comprehensive reform in CC Docket No. 96-45.²

The FIVE MACRUC States Reply Comments

The Five MACRUC State Commissions and individual Commissioners appreciate the opportunity to respond to the proposed interim, emergency price cap. As an initial matter, the signatory members supporting these Five MACRUC States Reply Comments should not be construed as binding on any State Commission or individual state commissioner in any proceeding before the respective State Commissions nor any individual Commissioner. Moreover, the considerations set forth in the Five MACRUC States Reply Comments could change in response to subsequent events.

The Five MACRUC States' Reply Comments support the proposed interim emergency cap on high-cost universal service support. This interim, emergency cap minimizes the impact on carriers and consumers in the MACRUC region.

Recovery of expanded USF support is an issue of particular importance in the MACRUC states because the MACRUC region is, generally, a net contributor to the federal USF even if some states or a few carriers in some states are net recipients. That is because federal USF support is, inevitably, recovered from consumers in the form of higher prices for services in the MACRUC Region.

² *Federal-State Joint Board on Universal Service Seeks Comment on Long-Term, Comprehensive High-Cost Universal Service Reform*, WC Docket No. 05-337, CC Docket No. 96-45, Comment and Reply Comment dates of May 31, 2007 and July 2, 2007, respectively.

For example, the Five MACRUC States contributed approximately 11.7% of the total Universal Service Support Mechanism payments in 2005.³ In contrast, these same Five MACRUC States received approximately 5.14% of total support.⁴ This equates to a net contribution in excess of \$430 million. Moreover, these Five MACRUC States generated over 11.19% of Total Telecommunications Revenue in 2004.⁵

The Five MACRUC States are concerned that the projected growth in the high-cost mechanism, fueled by the rapid and dramatic growth in payments to CETCs, will continue to produce this kind of inequitable and unfair allocation among contributions and support unless an interim freeze is put into place until there is a better solution. The Five MACRUC States believe that an important factor driving the expansion in the size of the USF is support for CETCs that are not subject to the same conditions as other incumbent carrier recipients

The Five MACRUC States also recognize the decline in overall penetration rates for telecommunications services from 2001 to 2004 in the MACRUC states as set out in Table 6.4 of the 2006 USF Report. For example, Delaware's telephone penetration rate went from 98.2% in 2001 to 97.9% in 2004 and the District of Columbia's went from 97.1% in 2001 to 96.1% in 2004. For New Jersey, the telephone penetration rate went from 98.0% in 2001 to 96.9% in 2004 while Pennsylvania's went from 97.8% in 2001 to 97.2% in 2004. Finally, the Virginia telephone penetration rate went from 97.3% in 2001 to 95.8% in 2004.

Given these considerations, the Five MACRUC States suggest that support for incumbent ETCs should be included within the proposed interim,

³ See, Table 1.12 on page 1-37 of the FCC's *2006 Universal Service Monitoring Report (2006 USF Report)*.

⁴ *2006 USF Report*, Table 1.12, p. 1-37.

emergency cap even if it has remained relatively stable compared to CETC support the last few years,. This comprehensive approach minimizes support for expanded contributions from the MACRUC region and promotes an even-handed approach which treats competitors and incumbents alike.

An even-handed approach that imposes a cap on incumbents and competitors alike during this interim, emergency period avoids the “poisoning of the well” discussed in Commissioner Copps’ dissent.⁶ This even-handed approach also gives competitors and incumbents a mutual interest in providing the kind of comprehensive solutions needed for the long-term in the pending proceeding.

On behalf of the Delaware Public Service Commission

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

⁵ 2006 USF Report, Table 1.13, p. 1-38.

⁶**Dissenting Statement Of** Commissioner Michael J. Copps, In the Matter of High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, May 1, 2007.

For the Public Service Commission of the District of Columbia

/s/ Agnes Alexander Yates

Chair

/s/ Richard E. Morgan

Commissioner

/s/ Betty Ann Kane

Commissioner

On Behalf of the New Jersey Board of Public Utilities:

/s/
JEANNE M. FOX
PRESIDENT

/s/
FREDERICK F. BUTLER
COMMISSIONER

/s/
CONNIE O. HUGHES
COMMISSIONER

/s/
JOSEPH L. FIORDALISO
BATOR
COMMISSIONER

/s/
CHRISTINE V.
COMMISSIONER

Docket Nos.
CC 96-45
WC 05-337

Wendell F. Holland, Chairman
Commonwealth of Pennsylvania Public Utility Commission

/s/

On behalf of the Commonwealth of Pennsylvania Public Utility Commission

Joseph K. Witmer, Esq.
Assistant Counsel

/s/

Dated: June 21, 2007

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

ON BEHALF OF THE VIRGINIA STATE CORPORATION
COMMISSION

/s/ Theodore V. Morrison, Jr.
Chair

/s/ Mark C. Christie
Commissioner

/s/ Judith Williams Jagdmann
Commissioner

